

UNITED STATES DISTRICT COURT FOR  
THE DISTRICT OF MASSACHUSETTS

IN RE PHARMACEUTICAL INDUSTRY	)	MDL No. 1456
AVERAGE WHOLESALE PRICE	)	Civil Action No. 01-CV-12257-PBS
LITIGATION	)	Judge Patti B. Saris
	)	
THIS DOCUMENT RELATES TO:	)	
	)	
State of Montana v. Abbott Labs., Inc., <u>et al.</u> ,	)	
02-CV-12084-PBS	)	
	)	
State of Nevada v. American Home Products	)	
Corp., <u>et al.</u> , 02-CV-12086-PBS	)	
	)	
County of Suffolk v. Abbott Laboratories, Inc.,	)	
<u>et al.</u> , 01-CV-12257-PBS	)	
	)	

**THE UNITED STATES' *EX PARTE* MOTION FOR AN EXTENSION  
OF TIME TO FILE ITS AMICUS CURIAE BRIEF**

The United States Department of Justice, on behalf of the Secretary of Health and Human Services (Secretary), moves for a ten (10) day extension, from March 8, 2004, to and including March 18, 2004, in which to file its *amicus curiae* brief in response to the Court's letter, dated January 8, 2004, inviting the Secretary to opine on certain issues arising in the above-captioned litigation.

The United States has worked diligently to prepare a response to the Court's questions. Given the complexity of the issue and the potential impact any ruling would have on the Medicaid Drug Rebate Program, however, the United States requires an additional ten days to complete its analysis and to finalize its response.

The United States requests leave to file this motion *ex parte* because its counsel does not have a service list. The United States is filing this motion electronically so that service can be

made electronically to those counsel who are registered with the court's ECF system. The United States requests that it be relieved of the requirement of LR 7.1(A)(2), for essentially the same reason.

Respectfully submitted,

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By: \_\_\_\_\_ /s/  
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Date: March 4, 2004

CERTIFICATION

The United States requests that it be excused from the requirement of LR 7.1(A)(2) for the reason stated above.

\_\_\_\_\_ /s/  
George B. Henderson, II